

APPLICANT(S): IDDAN, Gavriel J. et al.

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REMARKS

The present response is intended to be fully responsive to all points of objection and/or rejection raised by the Examiner and is believed to place the application in condition for allowance. Applicants assert that the present invention is new, non-obvious and useful. Prompt consideration and allowance of the claims is respectfully requested.

Status of Claims

Claims 12, 27, 30, 37, 38 and 40-47 are pending in the application, with claims 30 and 38 having been withdrawn as being drawn to a non-elected invention. Claims 12, 27, 37 and 40-47 have been rejected.

Claim 37 has been amended in this submission. Applicants respectfully assert that the amendments to the claims add no new matter.

Claims 30 and 38 have been canceled herein without prejudice or disclaimer. In making this cancellation without prejudice, Applicants reserve all rights in these claims to file divisional and/or continuation patent applications.

Restriction Requirement

In the June 26, 2008 Office Action, the Examiner restricted the claims to Group I: claims 12, 27, 37 and 40-47, drawn to a system for collecting and displaying in-vivo data; and Group II: claims 30 and 38, drawn to a method for collecting and displaying in-vivo data. In the response dated August 25, 2008, Applicants elected claims 12, 27, 37 and 40-47.

In the November 28, 2008 final Office Action, the Examiner made the restriction requirement final and requested that Applicants cancel the nonelected claims. In response, Applicants herein cancel claims 30 and 38, which are drawn to a nonelected invention.

CLAIM REJECTIONS

35 U.S.C. § 112 Rejection

In the Office Action, the Examiner rejected claims 12, 27, 37 and 40-47 under 35 U.S.C. § 112, first paragraph, as failing to comply with the written description requirement.

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The Examiner does not agree that Applicants' stated support at page 11, lines 24-27 for the limitation "wherein said pressure data displayed is measured at a corresponding capture time of the image displayed simultaneously" does in fact support this limitation. Therefore, claim 37 has been amended herein to comport with the written description at page 11, lines 24-27.

35 U.S.C. § 103 Rejections

In the Office Action, the Examiner rejected claims 12, 37 and 40-47 under 35 U.S.C. § 103(a), as being unpatentable over Cho et al. (U.S. Patent Application Publication No. 2004/0106849) in view of Kaye et al. (U.S. Patent No. 3,939,823) and Yoon (U.S. Patent No. 6,419,626).

Cho et al. was published on June 3, 2004, which is after the earliest claimed priority date of Applicants' application, July 3, 2002, the filing date of U.S. Provisional Application No. 60/393,300. However, the embodiment of Figure 8 of the current application, to which the pending claims are directed, did not appear in U.S. Provisional Application No. 60/393,300, but rather only in Applicants' U.S. Provisional Application No. 60/435,363, filed on December 23, 2002. Cho et al. is available as a reference against Applicants' application under 35 U.S.C. § 102(e) because Cho et al. was filed on December 3, 2002, which is prior to the December 23, 2002 filing date of Applicants' earliest claimed priority date for this subject matter.

However, in accordance with 37 C.F.R. § 1.131 and Manual of Patent Examining Procedure § 715, Applicants may submit a declaration to antedate a reference that qualifies as prior art under 35 U.S.C. 102(e), where the reference has a prior art date under 35 U.S.C. 102(e) prior to Applicants' effective filing date and shows but does not claim the same patentable invention.

Accordingly, Applicants herewith submit a Declaration of Gavriel J. Iddan Under 37 C.F.R. § 1.131 to show that the subject matter of pending claims 12, 27 and 40-47 was conceived of by the inventors hereof prior to December 3, 2002. Mr. Iddan, one of the inventors of this application, refers to notes dated prior to December 3, 2002, English language translations of relevant portions of which notes are supplied, as evidence that the

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subject matter of independent claim 37 were conceived of by the inventors prior to December 3, 2002.

Applicants also contend that the inventors, the owner of this application and their attorneys were duly diligent from prior to December 3, 2002 to December 23, 2002, the filing date of U.S. Provisional Application No. 60/393,300, which is the constructive reduction to practice of this invention.

Thus, in view of the proofs provided in the attached Declaration of Gavriel J. Iddan Under 37 C.F.R. § 1.131, Applicants argue that Cho et al. is no longer available as a reference against the subject patent application under 35 U.S.C. 102(e), and Applicants respectfully request that this rejection be withdrawn.

Accordingly, Applicants respectfully assert that amended independent claim 37 is allowable. Claims 12 and 40-47 depend from independent claim 37, directly or indirectly, and therefore include all the limitations of that claim. Therefore, Applicants respectfully assert that dependent claims 12 and 40-47 are likewise allowable. Accordingly, Applicants respectfully request that the Examiner withdraw the rejections to amended independent claim 37 and to claims 12 and 40-47 dependent thereon.

In the Office Action, the Examiner rejected claim 27 under 35 U.S.C. § 103(a), as being unpatentable over Cho et al. in view of Kaye et al. and Yoon as applied to claim 37, in further view of D'Andrea et al. (U.S. Patent Application Publication No. 2003/0191430).

Claim 27 depends from independent claim 37, directly or indirectly, and therefore includes all the limitations of that claim. Because Cho et al. is no longer available as a reference against this patent application, amended independent claim 37 is allowable. Therefore, Applicants respectfully assert that dependent claim 27 is likewise allowable. Accordingly, Applicants respectfully request that the Examiner withdraw the rejection to dependent claim 27.

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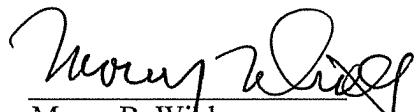
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In view of the foregoing amendments and remarks, the pending claims are deemed to be allowable. Their favorable reconsideration and allowance is respectfully requested.

Should the Examiner have any question or comment as to the form, content or entry of this Amendment, the Examiner is requested to contact the undersigned at the telephone number below. Similarly, if there are any further issues yet to be resolved to advance the prosecution of this application to issue, the Examiner is requested to telephone the undersigned counsel.

Please charge any fees associated with this paper to deposit account No. 50-3355.

Respectfully submitted,



Morey B. Wildes
Attorney/Agent for Applicants
Registration No. 36,968

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Pearl Cohen Zedek Latzer, LLP

1500 Broadway, 12th Floor

New York, New York 10036

Tel: (646) 878-0800

Fax: (646) 878-0801